
TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

Administrative Rules Oversight Committee Notice
One Year Requirement ([IC 4-22-2-25](#))
LSA Document #09-192

To: Representative Scott Pelath, Chairperson
Administrative Rules Oversight Committee
c/o Legislative Services Agency
Attn: Sarah Burkman
200 West Washington Street, Suite 301
Indianapolis, IN 46204-2789

From: Mason W. Pike, Staff Attorney

Re: LSA Document #09-192 -- Amendments to State-Owned Psychiatric Hospitals

Date: October 28, 2009

CC: Steve Barnes, Indiana Register, Legislative Services Agency
Jessaca Turner Stults, General Counsel, FSSA
Patricia Casanova, Director, Office of Medicaid Policy and Planning
Bridget McLaughlin, Policy Analyst (OMPP)

On behalf of the Family and Social Services Administration, Office of Medicaid Policy and Planning, I am submitting this memo to the Administrative Rules Oversight Committee in compliance with [IC 4-22-2-25](#), because the agency has determined that the promulgation of the captioned rule may not be completed within one year after publication of the Notice of Intent to Adopt a Rule.

The agency published its Notice of Intent to Adopt a Rule for LSA Document #09-192 on March 18, 2009 (DIN: [20090318-IR-405090192NIA](#)). The Proposed Rule was presented to the FSSA Committee for prereview on May 12, 2009, and to the Medicaid Advisory Committee on August 11, 2009. The economic impact analysis was submitted to the State Budget Agency on July 7, 2009. Several additional steps must be taken before this rule can be fully promulgated. Pursuant to [IC 4-22-2-28](#), the Office of Management and Budget must prepare a fiscal impact statement not more than 45 days after receiving a Proposed Rule from an agency. A Notice of Public Hearing must also be published along with the Proposed Rule ([IC 4-22-2-24](#)). A public hearing must be held and the agency afforded the opportunity to review and respond to any public comments. Due to these requirements and the time available the agency may not be able to have the final rule to the Governor for signature under the time restraints required by [IC 4-22-2-25\(a\)](#).

In addition to the circumstances mentioned above, there are additional factors to be taken into consideration. Any rule adopted by the agency must be approved by the Family and Social Services Committee (see [IC 12-8-3-1](#) et seq.), which meets only once per month. The Committee currently has several vacancies, and it is possible for a monthly meeting to occur without a quorum. Therefore, no action would take place on an adopted rule. This would mean delayed approval until the next monthly meeting of the Committee and presence of a quorum. Following approval by the FSSA Committee, the rule must be submitted to the Attorney General's office. Pursuant to [IC 4-22-2-32](#), the Attorney General has 45 days to complete his review of a rule. Whether a quorum is present at a monthly meeting of the FSSA Committee and the Attorney General's time frame for rule review are outside of the agency's control. For these reasons, it is unlikely that the rule will be approved by the Governor within one year of the date of publication of the notice of intent. The agency expects that LSA Document #09-192 can be approved by the Governor by October 28, 2010.

This notice setting forth the expected date of approval of LSA Document #09-192 as October 28, 2010, is being submitted in a timely manner. November 23, 2009, is the two hundred and fiftieth day after publication of the Notice of Intent to Adopt a Rule.

Posted: 11/11/2009 by Legislative Services Agency
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